

## **ADMINISTRATIVE PANEL DECISION**

InterContinental Hotels Group PLC, and Six Continents Limited v. qorileka  
vesekira, The ocean Club  
Case No. D2023-1256

### **1. The Parties**

The Complainants are InterContinental Hotels Group PLC, United States of America (“United States”), and Six Continents Limited, United States, represented by The GigaLaw Firm, Douglas M. Isenberg, Attorney at Law, LLC, United States.

The Respondent is qorileka vesekira, The ocean Club, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <sixsenseshotelgroup.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 23, 2023. On March 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainants on March 24, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on April 24, 2023.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2023. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on April 18, 2023.

The Center appointed Luca Barbero as the sole panelist in this matter on April 26, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The first Complainant InterContinental Hotels Group PLC (IHG PLC) is one of the world's largest hotel groups and is the parent company of the second Complainant Six Continents Limited.

The second Complainant is the owner, amongst others, of the following trademark registrations, as per trademark registration details submitted as annexes 8, 12 and 13 to the Complaint:

- Australian trademark registration No. 1016645 for SIX SENSES (word mark), registered on August 20, 2004, in classes 35, 41, 43 and 44;
- European Union Trade Mark registration No. 012188405 for SIX SENSES (figurative mark), filed on October 2, 2013 and registered on February 28, 2014, in classes 36, 43 and 44;
- United States trademark registration No. 4960591 for SIX SENSES (figurative mark), filed on June 4, 2013 and registered on May 17, 2016, in international class 43;
- United States trademark registration No. 4551528 for SIX SENSES (word mark), filed on November 4, 2013 and registered on June 17, 2014, in international class 39;
- United States trademark registration No. 4960590 for SIX SENSES (word mark), filed on June 4, 2013 and registered on May 17, 2016, in international class 43.

The second Complainant also owns <sixsenses.com>, registered on April 12, 2000 and used by the Complainant to promote its services under the trademark SIX SENSES.

The disputed domain name <sixsenseshotelgroup.com> was registered on March 9, 2023 and is pointed to a parking page with pay-per-click ("PPC") links that include links for "Hotel Room Reservation", "Hotel Accommodation", and "Vacation Rental Booking Site". According to the evidence submitted by the Complainants – which has not been contested by the Respondent, the disputed domain name was also used to create an email address from which an email impersonating the second Complainant was sent, seeking payments from a person who had made a reservation at a SIX SENSES hotel.

#### **5. Parties' Contentions**

##### **A. Complainants**

The Complainants contend that the disputed domain name is confusingly similar to the trademark SIX SENSES in which the Complainants have rights as it reproduces the trademark in its entirety with the mere addition of the words "hotel" and "group" and the generic Top-Level Domain ("gTLD") ".com".

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainants state that they never assigned, granted, licensed, sold, transferred or in any way authorized the Respondent to register or use the trademark SIX SENSES in any manner.

The Complainants contend that, by using the disputed domain name in connection with a PPC page that includes links for services related to the services for which the trademark SIX SENSES is registered and

used as well as for a phishing scam to impersonate the Complainants, the Respondent clearly did not use the disputed domain name in connection with a *bona fide* offering of goods or services and, therefore, cannot establish rights or legitimate interests.

The Complainants further highlight that the Respondent has never been commonly known by the disputed domain name and has never acquired any trademark or service mark rights in the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainants indicate that, considering i) all of its SIX SENSES trademarks were registered before the Respondent's registration of the disputed domain name, and specifically in the case of its oldest Australian registration, more than 18 years before the registration of the disputed domain name, ii) SIX SENSES is a famous and widely known trademark, iii) the disputed domain name was registered by the Respondent which is a totally unaffiliated entity and iv) the disputed domain name is confusingly similar to the Complainants' trademark, the Respondent was undoubtedly aware of the Complainants at the time of registering the disputed domain name and was blatantly acting in bad faith.

The Complainants further highlight that, considering the disputed domain name is obviously connected with the Complainants, the Respondent's actions suggest "opportunistic bad faith" in violation of the Policy.

Moreover, the Complainants emphasize that the Respondent registered the disputed domain name primarily for the purpose of disrupting the Complainants' business by intentionally attempting to attract, for commercial gain, Internet users and creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's services. The Complainants also submit that, by using the disputed domain name as part of a phishing scam to impersonate the second Complainant, the Respondent has undoubtedly acted in bad faith.

The Complainants also contend that the Respondent's use of the disputed domain name in connection with a PPC page further constitutes evidence of bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainants must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

### **6.1 Preliminary procedural issue: consolidation of the Complainants.**

As stated in section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the

complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation”.

In the case at hand, the first Complainant is the parent company of the second Complainant and the second Complainant is the owner of the trademark SIX SENSES on which the Complaint is based. The Panel finds that the Complainants have a specific common grievance and that it would be equitable and procedurally efficient to allow consolidation of the Complainants in these circumstances. See along these lines *InterContinental Hotels Group PLC, Six Continents Limited v. Privacy Service provided by Withheld for Privacy ehf / Nicholas Jaar*, WIPO Case No. [D2022-1579](#).

## 6.2 Substantive issues

### A. Identical or Confusingly Similar

The Panel finds that the Complainants have established rights over the trademark SIX SENSES based on the trademark registrations cited under section 4 above and the related trademark registration details submitted as annexes 8, 12 and 13 to the Complaint.

It is well accepted that the first element functions primarily as a standing requirement, and that the threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between a Complainant’s trademark and the disputed domain names to assess whether the trademark is recognizable within the disputed domain names (section 1.7 of the [WIPO Overview 3.0](#)). Moreover, where the relevant trademark is recognizable within the disputed domain names, the addition of other terms does not prevent a finding of confusing similarity under the first element (section 1.8 of the [WIPO Overview 3.0](#)). Furthermore, the applicable TLD in a domain name, in this case “.com”, is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (section 1.11.1 of the [WIPO Overview 3.0](#)).

The Panel finds that the disputed domain name is confusingly similar to the trademark SIX SENSES as it reproduces the trademark in its entirety with the mere addition of the terms “hotel” and “group”, which do not prevent a finding of confusing similarity.

Therefore, the Panel finds that the Complainants have proven that the disputed domain name is confusingly similar to a trademark in which the Complainants have established rights according to paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Complainants must show that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Panel finds that the Complainants have made a *prima facie* case and that the Respondent, by not having submitted a Response, has failed to demonstrate rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy for the following reasons.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainants. The Respondent is not a licensee of the Complainants, nor has the Respondent otherwise obtained an authorization to use the Complainants' trademarks. Moreover, there is no element from which the Panel could infer a Respondent's right over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel finds that the Respondent's use of the disputed domain name does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainants' trademark.

As mentioned above, the disputed domain name points to a parking page with PPC links related to services for which the trademark SIX SENSES is registered and used, including "Hotel Room Reservation", "Hotel Accommodation", and "Vacation Rental Booking Site". As stated in section 2.9 of the [WIPO Overview 3.0](#), "Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users".

Moreover, according to the evidence submitted by the Complainants – which has not been contested by the Respondent – the disputed domain name has been used for the creation of an email address used for the sending of scam emails claiming to come from the second Complainant's reservations department, requesting a hotel guest to submit payment to an account not associated with the Complainants. As indicated in section 2.13.1 of the [WIPO Overview 3.0](#): "Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent".

Therefore, the Panel finds that the Complainants have proven that the Respondent has no rights or legitimate interests in the disputed domain name according to paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy requires that the Complainants prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

The Panel finds that, in light of i) the prior registration and use of the trademark SIX SENSES in connection with the Complainants' hotel services, ii) the well-known character of the trademark and iii) the composition of the disputed domain name, combining the Complainants' trademark with terms descriptive of the services provided by the Complainants, the Respondent very likely registered the disputed domain name having the trademark in mind.

Furthermore, the Panel notes that the disputed domain name is pointed to a parking page with PPC links related to the Complainants' field of activity, which further indicates that the Respondent was aware of the Complainants trademark SIX SENSES.

In addition, according to the evidence on records, a communication sent from an email address based on the disputed domain name was apparently used for the sending of a scam email which misused the Complainants' trademark and pretended to be sent on behalf of the second Complainant's reservations department. The Panel finds that this is compelling evidence of actual knowledge of the Complainants' trademark.

Furthermore, since the Complainants' trademark is well-known, the Panel shares the view of a number of panel findings of "opportunistic bad faith" in the registration of renowned or even somewhat less famous trademarks e.g. *Veuve Cliquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *Expedia, Inc. v. European Travel Network*, WIPO Case No. [D2000-0137](#); *Prada S.A. v. Mark O'Flynn*, WIPO Case No. [D2001-0368](#); *Ferrari S.p.A. v. Inter-Mediates Ltd.*, WIPO Case No.

[D2003-0050](#); and *The Nasdaq Stock Market, Inc. v. Act One Internet Solutions*, WIPO Case No. [D2003-0103](#).

The Panel also finds that, in view of the use of the disputed domain name to divert users to the PPC website described above, the Respondent intentionally attempted to attract Internet users to its website, for commercial gain, by creating a likelihood of confusion with the Complainants' trademark as to the source, sponsorship, affiliation or endorsement of its website and the services promoted therein, according to paragraph 4(b)(iv) of the Policy.

The Panel also finds that the Respondent's use of an email address based on the disputed domain name to contact a customer of the second Complainant seeking payment for a reservation at a SIX SENSES hotel clearly amounts to further very relevant evidence of bad faith, as it demonstrates the Respondent's clear intent to pass off as the second Complainant to fraudulently obtain payments of amounts of money.

As stated in Section 3.4 of the [WIPO Overview 3.0](#), "Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. (In some such cases, the respondent may host a copycat version of the complainant's website.) Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers".

Therefore, the Panel finds that the Complainants has also proven that the Respondent registered and is using the disputed domain name in bad faith according to paragraph 4(a)(iii) of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <sixsenseshotelgroup.com> be transferred to the Complainants.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: May 10, 2023